

b.) Remarks

Claim 11 is amended in order to recite the present invention with the specificity required by statute. No new matter has been added.

Claims 11, 12, 15-18 and 32-35 remain provisionary rejected on the ground nonstatutory obviousness-type double patenting as being obvious over claims 1-18 of copending application 10/584,234. Although Applicants do not need to respond to this rejection because the copending application has not yet issued, solely in order to reduce the issues and expedite prosecution, a Terminal Disclaimer accompanies this amendment. A depository account payment of \$130.00 is being filed herewith to cover the fee under 37 C.F.R. § 1.20(d). Any deficiencies may be charged to Deposit Account No. 06-1205.

Claims 11 and 12 are rejected under 35 U.S.C § 102(b) as anticipated by Kimata (*Memoirs of the Research Institute for Food Science*, Kyoto University, No. 6 (1953) 3-11; CAPLUS accession number 1953:73378, newly cited) which teaches 2,4-dihydroxy-6-propyl benzophenone. In response, claim 11 is above amended to recite that R^{6A} cannot be hydrogen and so, this rejection is overcome.

Lastly, the claims are objected to for reading on non-elected subject matter resulting from the selection of species requirement. This objection should now be addressed by the presently allowable status of generic claim 11 in conformity with the election noted from page 3, last paragraph to page 4, line 3 of the June 29, 2007 Office Action.

In view of the above amendments and remarks, Applicants submit that all of the Examiner's concerns are now overcome and the claims are now in allowable condition.

Accordingly, reconsideration and allowance of this application is earnestly solicited.

Claims 11, 12, 15-18 and 32-35 remain presented for continued prosecution.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

/Lawrence S. Perry/
Lawrence S. Perry
Attorney for Applicants
Registration No. 31,865

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

LSP\ac

FCHS_WS 2074698_1.DOC